

MINUTES
SAN DIEGO COUNTY PLANNING COMMISSION
Regular Meeting – July 25, 2008
DPLU Hearing Room, 9:00 a.m.

The meeting convened at 9:01 a.m. and adjourned at 10:27 a.m.

A. ROLL CALL

Commissioners Present: Brooks, Day, Kreitzer, Riess, Woods

Commissioners Absent: Beck, Pallinger

Advisors Present: Shick (DPW); Taylor (OCC)

Staff Present: Baca, Conners, Dawson, Gibson, Giffen, Grunow, Lubich, Maxson, Rowan, Russell, Jones (recording secretary)

B. Statement of Planning Commission's Proceedings, Approval of Minutes for the Meeting of May 30, June 13 and June 27, 2008

Action: Beck - Day

Approve the Minutes of May 30, June 13 and June 27, 2008.

Ayes: 5 - Brooks, Day, Kreitzer, Riess, Woods
Noes: 0 - None
Abstain: 0 - None
Absent: 2 - Beck, Pallinger

C. Public Communication: Opportunity for members of the public to speak to the Commission on any subject matter within the Commission's jurisdiction but not an item on today's Agenda.

None.

D. Announcement of Handout Materials Related to Today's Agenda Items

E. Requests for Continuance

F. Formation of Consent Calendar: Items 2 (TM 5529RPL¹) and 3 (P06-033W¹)

BC 07-137, Agenda Item 1:**1. Whillock Boundary Adjustment (BC) 07-137, Crest/Dehesa/Harbison Canyon/Granite Hills Community Plan Area (continued from June 27, 2008)**

Appeal of the Director of Planning and Land Use's Decision to deny the Whillock Boundary Adjustment with Certificate of Compliance (2 Lots), BC 07- 137, which determined that Assessor's Parcel Number (APN) 508-080-01 was not created as a "building site" and is therefore not eligible to be included in a Boundary Adjustment application pursuant to Section 6903(e) of the County Zoning Ordinance. Section 6903(e) prohibits the relocation of lot lines that would include any lots or parcels which, in the Director's judgment, Boundary Adjustments based on design, size, or specification of the original document creating the parcel, were not intended as a building site". The subject properties, APN 508-080-01 & 54, are located at 2590 Camino Monte Sombra in the Crest/Dehesa/Harbison Canyon/Granite Hills Community Plan Area.

Staff Presentation: Conners

Proponents: 3; **Opponents:** 0

Discussion:

DPLU's Interim Director has determined that the parcel in question was created to support public utilities and was not intended as a building site eligible for lot-line adjustments. Staff explains that the subject property was conveyed to a public agency for the sole purpose of accommodating public utilities approximately 50 years ago. At the time of conveyance, the city of El Cajon granted an easement and right-of-way for water pipelines, electrical power lines and other utilities necessary for the operation of a water pumping plant. The creation of the utility parcel was accomplished by an exception provided in the State Map Act for public utility purposes. Such parcels were not subjected to subdivision regulations and were created without compliance with local ordinances requiring fees, dedications or discretionary review. Staff explains that the Zoning Ordinance contains regulations designed to prevent increased development of these types of legal lots through the Boundary Adjustment process. Staff believes the application is inconsistent with the County's Zoning Ordinance, and approval of the application would set a precedent, facilitate many other Boundary Adjustment applications and circumvent the requirements of the Subdivision Map Act.

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The applicant's representative informs the Planning Commission that the application for the Boundary Adjustment was filed in November 2007. The Scoping Letter was received in January 2008 outlining two issues: one pertaining to environmental review and the other pertaining to the Zoning Ordinance. Following a meeting in February 2008, Staff sent an email agreeing that this parcel did qualify as a building site. Three months later, Staff reversed that opinion sent a letter in May 2008 denying the Boundary Adjustment application. The applicant's representative maintains that the Zoning Ordinance doesn't differentiate between the types of building on a building site. The Ordinance defines a building site as "one or more legally created lots when used in combination for a building or group of buildings together with all open spaces as required by this ordinance", and doesn't make a distinction between commercial, residential, industrial or utility buildings. The applicant's representative insists that this 12,000 square-foot parcel is larger than many residences in this community and he urges the Planning Commission to direct Staff to continue processing the Boundary Adjustment application.

Staff clarifies that the applicant was advised that Staff had many reservations about the utility lot's ability to meet the definition of a building site. The applicant was allowed to resubmit his application along with an environmental initial study application to further assess whether the site could be considered for a Boundary Adjustment. Staff subsequently received the deeds and additional information that clearly showed the parcel had been created solely for the purpose of a pump station. No evidence was ever located provided the position that a building had ever been created or used on this site. The applicants' representative insists that there were two buildings on the site and a pumping station.

In response to questions posed by Commissioner Riess, the applicant explains that no fee was paid for the parcel. The property was originally part of the Shadow Mountain development, and when it reverted back to the applicant, he merely removed the buildings and asbestos pipes from the site, at a cost of \$10,000 or less. This explanation tends to bolster the Director's determination that the parcel is merely a vacated public utility easement, not a buildable parcel.

Action: Woods – Kreitzer

1. Deny the appeal of the Director of Planning and Land Use's decision; and

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2. Find that the Director of Planning and Land use correctly determined that the Assessor's Parcel Number 508-080-01 was not created as a building site and is, therefore, not eligible to be included in a Boundary Adjustment application pursuant to Section 6903(e) of the County Zoning Ordinance.

Ayes: 5 - Brooks, Day, Kreitzer, Riess, Woods
Noes: 0 - None
Abstain: 0 - None
Absent: 2 - Beck, Pallinger

TM 5529RPL¹, Agenda Item 2:

2. Magnolia Gateway, Tentative Map (TM) 5529RPL¹, Lakeside Community Plan Area

The project is a request for a Tentative Map to subdivide three (3) parcels totaling 3.57 acres into six (6) lots. The subject property is a portion of an existing retail commercial center located at 1571, 1591, 1601, 1641 Magnolia Avenue in the unincorporated portion of El Cajon, immediately south of State Route 67 and west of Bradley Avenue. No physical changes to the site are proposed or required. No extension of sewer or water utilities will be required by the project

Staff Presentation: Taylor

Proponents: 0; **Opponents:** 0

This Item is approved on consent.

Action: Kreitzer – Day

1. Adopt the Negative Declaration dated April 10, 2008 on file with the Department of Planning and Land Use as Environmental Review No. 91-011-05; and
2. Adopt the Resolution approving TM 5529RPL¹, which makes the appropriate Findings and includes those requirements and Conditions necessary to ensure that the project is implemented in a manner consistent with the Subdivision Ordinance and State law.

Ayes:	5 -	Brooks, Day, Kreitzer, Riess, Woods
Noes:	0 -	None
Abstain:	0 -	None
Absent:	2 -	Beck, Pallinger

P06-033W¹, Agenda Item 3:**3. Cricket/Henry Avocado Grove, Major Use Permit Modification P06-033W¹, North County Metropolitan Subregional Plan Area**

Proposed Modification to Major Use Permit P06-033, to correct Conditions in the Major Use Permit related to maintenance of the private road that provides access to the property. The Modification would delete original Condition A.4, which required road maintenance prior to issuance of any permits, and replace it with Condition C.15, which requires the applicant to be responsible for road maintenance due to damage from construction or operation throughout the life of the project, as needed. No structures are proposed as part of this Major Use Permit Modification. The property, located at 3153 River Road in the North County Metro Subregional Plan Area, is zoned RR1 (Rural Residential). The site is designated (2) Residential, Designation (2) Residential and is within the Current Urban Development Area (CUDA) Land Use Category.

Staff Presentation: Lubich

Proponents: 0; **Opponents:** -

This Item is approved on consent.

Action: Kreitzer – Day

Grant Major Use Permit P06-033W¹, which makes the appropriate Findings and includes those requirements and Conditions necessary to ensure that the project is implemented in a manner consistent with the Zoning Ordinance and State law.

Ayes:	5 -	Brooks, Day, Kreitzer, Riess, Woods
Noes:	0 -	None
Abstain:	0 -	None
Absent:	2 -	Beck, Pallinger

TPM 20725, Agenda Item 4:**4. Ruffin/Johnson Appeal of Director's Decision, Tentative Parcel Map (TPM) 20725, Pala-Pauma Community Plan Area**

Appeal of a decision by the Director of Planning and Land Use to deny Tentative Parcel Map (TPM) 20725 because the applicant failed to provide an acceptable fire protection plan. Specifically, the proposed project does not include secondary access as required by State law (California Code of Regulations Title 14) and the County Fire code. In addition, the project site, which is located near the terminus of Ranch Heights Road in the Pala-Pauma Community Plan Area, cannot be served within the General Plan emergency travel time limit (20 minutes). The applicant proposes to subdivide 73.8 acres into 4 residential parcels, including a remainder parcel. The project site is subject to the (18) Multiple Rural Land Use Designation, and is zoned (A70), Limited Agricultural zone.

Staff Presentation: Smith, Rowan

Proponents: 2; **Opponents:** 0

Discussion:

Staff recommends denial of this Tentative Parcel Map due to lack of an acceptable fire-protection plan, lack of a secondary access to/from the project site, and lack of progress on the applicant's part. Staff explains that the project site is located in a high-fire area with inadequate fire service and doesn't comply with State regulations or the County's Fire Code. The Public Facility Element establishes a maximum emergency service travel-time of 10 minutes for this project site; however, the estimated travel time from the nearest fire station (Cal-Fire Rincon) obligated to respond is 30 minutes. The Pala and Pauma Reservation stations are not obligated to respond, nor is Station 4 of the North County Fire Protection district (FPD) or fire stations in Temecula. Staff discussed annexation into the North County FPD with the applicant, but this option is speculative. The project site is 7,000 feet away from the District border and all intervening property owners would need to agree to the annexation. More importantly, annexation would not resolve travel time issues, because the travel time from Station 4 is 26 minutes instead of the required 10 minutes. An additional station would need to be constructed and staffed in order to provide adequate emergency service to the project site.

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Staff explains that the applicant suggested that the TPM be approved with a requirement that it annex into the North County FPD, but the Public Facilities Element requires Findings be made that sufficient fire protection is available or will be available prior to project approval. That Finding is based on meeting the emergency travel time requirements.

The project also fails to meet access requirements. The site is located at the end of Rancho Heights Road, a dead-end road. This road is 21,650' long as measured from Pala-Temecula Road, which is the first opportunity to evacuate the area in two directions. Alternate routes to the south are not passable without a four-wheel drive vehicle, gate access and permission from the Pala Indian Reservation, and there is no access possible from the east or west. The proposed route is more than 16 times the maximum length for a dead-end road located within a State-emergency response area where Cal-Fire is the responsible authority. Staff reminds the Commission that secondary access is mandated when a dead-end road exceeds the maximum length. Rancho Heights Road is also extremely heavily vegetated with highly combustible plants located along its edges. The road is also quite narrow with no plant fuel management, varying from 20-24 feet wide in some portions and from 10 to 12 feet wide in portions. Future residents would have to travel 4.1 miles along this road to escape during a fire emergency. During Santa Ana conditions, Staff believes the wind will blow towards the project site from a north-to-northeasterly direction. The type of vegetation visible during Staff's visit to the project site will create 70' to 107' flame heights during Santa Ana wind-driven fire conditions.

As an alternative to provisions for secondary access, the applicant proposes a shelter-in-place fire-protection system; however, the County's fire marshals have determined that this project site is not a good candidate for shelter-in-place development. Shelter-in-place development requires extensive fuel management that must be closely monitored by the fire agency. It also requires on-going educational programs, wherein all residents of a shelter-in-place community are regularly trained on survival methods during a fire event. In addition, most programs include secondary access.

The Director's decision to deny this TPM was also based on lack of progress in responding to Staff's recommendations and requirements. Staff explains that the application was submitted in 2003 and went out for public review one year later. When public comments raised a fair argument related to fire and emergency services, Staff requested that the applicant provide a fire protection plan. When the plans submitted by the applicant were deemed inadequate, the applicant requested a project issue-resolution meeting. During the 3.5 years since that meeting, the applicant never responded to Staff's correspondence. When a

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preliminary Notice of Denial was issued in May 2008, the applicant finally responded by requesting a Time Extension. That request was denied because the applicant failed to modify the project's design or address outstanding issues during the 3.5-year period.

The applicant explains that he purchased the property in 1982. He and community residents have installed a water system, electrical and telephone power, and established an improvement district. What were initially dirt roads are now paved. The area currently contains 50 homes and is growing. The applicant explains that he can't annex his property to the North County Fire Protection District because of the tax code system (the Fire Protection District only obtains revenue from "new" structures, so none of the existing homes qualify), but he has obtained a "will serve" commitment from the District provided that certain conditions are met. The applicant proposes, in an effort to satisfy County requirements, providing a "fire safe" area with up to 350' clearance around all structures on the project site. He informs the Planning Commission that the General Plan Update proposes 40-acre zoning in this area and, if that recommendation is adopted, he won't be able to subdivide this property in the future.

Commissioner Brooks reminds the applicant that providing a fire-safe area still leaves Staff's concerns about access/egress unresolved, because emergency vehicles would still be required to travel 4.1 miles to reach or leave the project site. Commissioner Kreitzer points out that providing a 350' clearance around the proposed structures would strip the property of vegetation, including chaparral (a threatened species). Commissioner Kreitzer also points out that the heat from wild fires is so intense, fire vehicle operators are hesitant to attempt traveling a road as narrow and highly vegetated as Rancho Heights Road. Commissioner Kreitzer does not support shelter-in-place development for this area, particularly if children reside here.

Commissioner Day, who strongly supports the concept of shelter-in-place, believes its application in this instance would be an enormous mistake, especially when the amount of plant fuel that currently exists in this location and the amount of clearing required to create a shelter-in-place development is taken into consideration. Commissioner Woods concurs and insists that Staff is correct: the applicant must provide a secondary access. Commissioner Day is willing to support a six-month time extension, with the understanding that the applicant return with a project that provides a secondary access and complies with the Zoning Ordinance and the Fire Code. Commissioner Brooks also insists that the applicant return with a definite "will serve" or annexation commitment from the fire district.

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Action: Day – Brooks

Postpone consideration of TPM 20725 for six months (January 23, 2009). The proposed project must conform to the County's General Plan and the Zoning Ordinance, including provisions for a secondary access, and a commitment from the fire district for either annexing the property or providing emergency service.

Discussion of the Action:

Staff reminds that Commission that the applicant has not made any progress on this project for the past 3.5 years. His account is now thousands of dollars in deficit and he refuses to bring it current.

Amended Action:

Postpone consideration of TPM 20725 for six months (January 23, 2009). The proposed project must conform to the County's General Plan and the Zoning Ordinance, including provisions for a secondary access, and a commitment from the fire district for either annexing the property or providing emergency service. Staff is to do no work on this project until all indebtedness to the County has been resolved and the applicant's account is current. The applicant is to ensure that his account remains solvent.

Ayes:	5 -	Brooks, Day, Kreitzer, Riess, Woods
Noes:	0 -	None
Abstain:	0 -	None
Absent:	2 -	Beck, Pallinger

Administrative:

G. Director's Report:

Commissioner Kreitzer requests that Staff provide a report on the County's efforts to develop and implement a vegetation management plan.

H. Report on actions of Planning Commission's Subcommittees:

None.

I. Designation of member to represent the Planning Commission at Board of Supervisors meeting(s):

If possible, Commissioner Day will represent the Planning Commission at the August 6, 2008 Board of Supervisors meeting.

J. Discussion of correspondence received by the Planning Commission:

None.

K. Scheduled Meetings:

August 8, 2008	Regular Meeting, 9:00 a.m., DPLU Hearing Room
August 22, 2008	Regular Meeting, 9:00 a.m., DPLU Hearing Room
September 5, 2008	Regular Meeting, 9:00 a.m., DPLU Hearing Room
September 19, 2008	Regular Meeting, 9:00 a.m., DPLU Hearing Room
October 3, 2008	Regular Meeting, 9:00 a.m., DPLU Hearing Room
October 17, 2008	Regular Meeting, 9:00 a.m., DPLU Hearing Room
October 31, 2008	Planning Commission Workshop, 9:00 a.m., DPLU Hearing Room
November 7, 2008	Regular Meeting, 9:00 a.m., DPLU Hearing Room
November 21, 2008	Regular Meeting, 9:00 a.m., DPLU Hearing Room
December 5, 2008	Regular Meeting, 9:00 a.m., DPLU Hearing Room

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December 19, 2008

Regular Meeting, 9:00 a.m., DPLU Hearing Room

There being no further business to be considered at this time, the Chairman adjourned the meeting at 10:27 a.m. to 9:00 a.m. on August 8, 2008 in the DPLU Hearing Room, 5201 Ruffin Road, Suite B, San Diego, California.